



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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SEP 23 2008

Ronald J. Tenpas
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7415
Ben Franklin Station
Washington, D.C. 20044-7415

REPLY TO THE ATTENTION OF:

S-6J

RE: U.S. and State of Illinois v. Hamilton Sundstrand Corp.
Rockford, Illinois (Winnebago County).
Consent Decree for Remedial Action

Dear Mr. Tenpas:

I recommend that the Department of Justice approve the proposed Consent Decree (CD) for performance of the Remedial Action at the Hamilton Sundstrand Corporation (Hamilton Sundstrand or defendant) portion of Source Area 9/10 of the Southeast Rockford Groundwater Superfund Site ("the Site") in Rockford, Illinois (Winnebago County) in the above referenced case.

The United States alleges that since approximately 1926, defendant, Hamilton Sundstrand, has owned and/or operated the property that comprises a major portion of (and contributes a principal portion of the hazardous substances at) Source Area 9/10, which is a significant source of contamination for the overall Site.

The Site is on the Superfund NPL list, and comprises a 10-square mile residential area that includes scattered industrial, retail and commercial operations throughout, where high levels of hazardous chlorinated volatile organic compounds (VOCs) have been identified in the groundwater. The original source of the contamination--possibly illegal disposal of chemical solvents and other hazardous materials--has been determined to originate from several source areas in the Southeast Rockford area including Source Area 9/10. Source Area 9/10 is an industrial area that is bounded by Eleventh Street on the east, Twenty-third Avenue on the north, Harrison Avenue on the south, and Sixth Street on the west in the southern portion of Rockford, Illinois.

Work at the Site is divided among three operable units. Operable unit 1 was U.S.EPA's 1989-1991 emergency removal action providing bottled water, point-of-use carbon filters, and extension of the City of Rockford's municipal water mains and service connections to affected residents at the site. Operable unit 2, which addressed contaminated groundwater, was responsible for development of a December 1997 CD (between the U.S. EPA, Illinois EPA and

the City of Rockford).¹ Operable unit 3 covers remediation of contaminated source materials at the Site and resulted in a final 2001 IL EPA Remedial Investigation/Feasibility Study (RI/FS), in consultation with U.S. EPA, and a publicly noticed and issued June 2002 Record of Decision (ROD). The June 2002 ROD addressed remediation at four identified Source Areas of the Site (4, 7, 9/10, and 11).

In January 2003, U.S. EPA negotiated and issued a CERCLA 106 AOC to Hamilton Sundstrand for performance of a Remedial Design, pursuant to the June 2002 ROD. Hamilton Sundstrand complied, and in April 2007, U.S. EPA approved the final Remedial Design for work at the Hamilton Sundstrand portion of Source Area 9/10 of the Site. After determining the interest of the State of Illinois in participating in the case, in September 2007, U.S. EPA issued a CERCLA Special Notice Letter to Hamilton Sundstrand for performance of the Remedial Action.

The June 2002 OU 3 ROD values the Source Area 9/10 remedy at \$7.9 million.

U.S. EPA requests approval of the proposed Remedial Action CD.

Under the terms of the settlement, defendant will perform a remedial action at its facility pursuant to the CD and accompanying Statement of Work (SOW). Defendant will implement a Groundwater Management Zone (GMZ) at its property pursuant to the provisions of 35 Illinois Administrative Code Part 620. The specific remedial actions to be performed by defendant shall include use of air sparging, operation of a soil vapor extraction system, and a limited area contaminated soil excavation and capping (if necessary) at defendant's facility's Outside Storage and Loading Dock Areas (pending U.S. EPA issuance of a planned Explanation of Significant Difference for the Operable Unit 3 ROD). The CD and SOW also require long-term groundwater monitoring, implementation of Operation and Maintenance activities, as well as implementation of institutional controls. Under the CD, defendant will implement the remedy described in the SOW. As part of the negotiated SOW, defendant may propose that U.S. EPA and Illinois EPA allow it to reduce or cease the remedial action source control activities. Defendant may also submit a proposal for an alternative remedial action implementation approach. However, defendant may not implement any changes in the RA of the SOW without approval of U.S. EPA with the opportunity for review and comment by Illinois EPA. U.S. EPA and Illinois EPA may order defendant to perform additional or alternative remedial activities, in the event of a determination of a failure to meet the performance standards of the remedy, or a finding of leachate at the defendant's portion of Source Area 9/10 of the Site. The CD also allows defendant to request mediation in lieu of informal dispute resolution, but only with the agreement of U.S. EPA, and with defendant paying all costs for the mediator and the time for mediation

¹Between 2000 and 2006, the United States and the State of Illinois negotiated 2 more amended CDs for cost recovery with the City of Rockford and approximately 175 individual and corporate covenant beneficiaries, and the United States sued and negotiated 1 more cost recovery CD with a recalcitrant owner. These settlements recovered approximately \$16 million for the United States and approximately \$220,000 for the State of Illinois.

going no longer than the informal dispute resolution process.

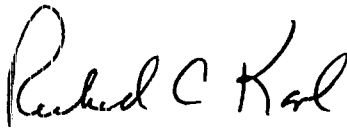
Defendant is responsible for reimbursing all past and future response costs accrued from the April 2007 approval of the RD forward to U.S. EPA and Illinois EPA.

In return, the defendant will receive resolution of liability and statutory contribution protection for itself and any subsequent owner of defendant's property portion of Source Area 9/10 of the Site, subject to standard reservations of rights by the United States and the State of Illinois. The United States and the State of Illinois will also covenant not to sue defendant and any subsequent owner of defendant's property with respect to response actions taken at its portion of Source Area 9/10 of the Site. These covenants not to sue shall take effect upon defendant's completion of the remedial action work. These covenants are conditioned upon defendant's (and any subsequent owner's) satisfactory performance of all requirements under the CD. Also, the proposed CD for RA does not release defendant from any liability at Source Area 9/10 or other parts of the Site off of its property, that can later be attributed to defendant.

Given the nature of this case, I believe that this remedial action Consent Decree represents a fair and equitable outcome under CERCLA.

The U.S. EPA technical contact for the Southeast Rockford Groundwater site is Shari Kolak at 312/886-6151. The U.S. EPA attorney for the site is Tom Turner, Assistant Regional Counsel, at (312) 886-6613.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Richard C. Karl". The signature is fluid and cursive, with the first name "Richard" being the most prominent part.

Richard C. Karl
Director, Superfund Division

Enclosure

cc: Grant Nakayama
Assistant Administrator for Enforcement and
Compliance Assurance

Marcia Mulkey, Director
Office of Site Remediation Enforcement

William Brighton
Environment and Natural Resources Division
U.S. Department of Justice